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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/790,736

03/03/2004

Yoichi Hamada

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08/15/2006

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EXAMINER

RAMAKRISHNAIAH, MELUR

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/790,736

Applicant(s)

HAMADA, YOICHI

Examiner

Melur Ramakrishnaiah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3-3-04/10-25-05</u> . | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 7, 11-13, 17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsunoda et al. (JP10-098702, hereinafter Tsunoda) in view of Nakamura et al. (JP2002-354436, hereinafter Nakamura) and Nishimura (JP2001-186487).

Regarding claim 1, Tsunoda discloses a picture phone apparatus comprising: an image picking section (2, Drawing: 1) which picks up a picture data, a display section (14, Drawing: 2), a substitution picture storage section (16, Drawing: 2) which stores a substitution picture data (paragraph: 0017), an image processing section in (18, Drawing: 2) which checks whether the picked up picture data is valid or invalid (this is implied by whether camera is in stored position or not), retrieves the substitution picture data from the substitution picture storage section to output as transmission picture when it is determined that picked up picture data is invalid, sets the picked up picture data as the transmission picture data when it is determined that the picked-up picture data is valid and transmitted to the other party (paragraphs: 0017-0032).

Tsunoda differs from claim 1 in that he does not show the following: encoding, multiplexing the encoded transmission picture data and transmission audio data and an

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image processing section which automatically checks whether the picked up picture data is valid or invalid.

However, Nakamura discloses video telephone apparatus which teaches the following: encoding, multiplexing the encoded transmission picture data and transmission audio data (Drawing: 1, paragraphs: 0007-0012); Nishimura discloses portable video telephone set which teaches the following: an image processing section (reads on 3, Drawing 2) which automatically checks whether the picked up picture data is valid or invalid (abstract, paragraphs: 0020-0031, 0046-0049).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Tsunoda's system to provide for the following: encoding, multiplexing the encoded transmission picture data and transmission audio data as this arrangement would provide well known means for processing data for transmission and reception as taught by Nakamura; an image processing section which automatically checks whether the picked up picture data is valid or invalid as this arrangement would facilitate to automatically to determine what data has to be sent depending on conditions at the user terminal as taught by Nishimura.

Regarding claim 11, Tsunoda discloses a picture data transmission method in a picture phone apparatus, comprising: picking up picture data, checking whether the picked-up picture data is valid or invalid (this is implied by whether camera is in stored position or not), transmitting the picked-up picture data as a transmission picture when it is determined that the picked up picture data is valid, and substitution picture data as

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the transmission picture data when it is determined the picked-up picture data is invalid, transmitting the transmission data to a counter station (paragraphs: 0017-0032).

Tsunoda differs from claim 11 in that he does not teach the following: encoding the picked up picture data and multiplexing the transmission picture data and transmission audio data; automatically checking whether the picked-up picture data is valid or invalid and transmitting required data accordingly.

However, Nakamura teaches the following: encoding the picked up picture data and multiplexing the transmission picture data and transmission audio data (Drawing: 1, paragraphs: 0007-0012); Nishimura discloses portable video telephone set which teaches the following: an image processing section (reads on 3, Drawing 2) which automatically checks whether the picked up picture data is valid or invalid (abstract, paragraphs: 0020-0031, 0046-0049).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Tsunoda's system to provide for the following: encoding the picked up picture data and multiplexing the transmission picture data and transmission audio data as this arrangement would provide well known means for processing data for transmission and reception as taught by Nakamura; automatically checking whether the picked-up picture data is valid or invalid and transmitting required data accordingly as this arrangement would facilitate to automatically to determine what data has to be sent depending on conditions at the user terminal as taught by Nishimura

Regarding claims 2-3, 7, 12, 17, Tsunoda teaches the following: image processing section in (18, Drawing: 2) controls the display section to display

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transmission picture data, an operation section (15, Drawing: 2), wherein the image processing section outputs the transmission picture data to the communication processing section (reads on 12, Drawing: 2) when a picture transmission instruction is inputted from the operation section, substitution picture data is one of a still image data and video picture data, displaying the transmission picture data (paragraphs: 0017-0026).

Tsunoda differs from the claim 13 in that he does not teach the following: encoding the data.

However, Nakamura teaches the following: encoding the picked up picture data (Drawing: 1, paragraphs: 0007-0012).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Tsunoda's system to provide for the following: encoding the data as this arrangement would provide well known means for processing data for transmission and reception as taught by Nakamura.

3. Claims 4, 6, 14, 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsunoda in view of Nakamura and Nishimura as applied to claims 1 and 11 above, and further in view of Aida (JP 401213087A).

Regarding claims 4, 6, 14, and 16, the combination does not teach the following: image processing section determines whether the picked-up picture is valid or invalid, based on at least one of brightness data of the picked-up picture data and frequency of the picked-up picture data.

However, Aida discloses picture encoding/transmitting equipment which teaches the following: image processing section (3, fig. 1) determines whether the picked-up picture is valid or invalid, based on picture element taking-in range according to an average moving vector (fig. 1, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: image processing section determines whether the picked-up picture is valid or invalid, based on at least one of brightness data of the picked-up picture data and frequency of the picked-up picture data as this arrangement would facilitate to determine validity or otherwise of the picture element for further action as taught by Ada, thus providing for transmission of valid image.

4. Claims 5, 15, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsunoda in view of Nakamura, Nishimura and Aida as applied to claims 1 and 11 above, as applied to claims 1, 11 above, and further in view of Kato et al. (JP2002-077840, hereinafter Kato).

Regarding claims 5 and 15, the combination teaches the following: an audio processing section (16, Drawing 1), speaker (17, Drawing 1), wherein communication processing section receives reception data, separates the reception data into reception picture data and reception audio data and outputs the reception picture data to the image processing section (7, Drawing 1) and the reception audio data to the audio processing section (16, Drawing 1), the audio processing section decodes reception audio data to produce an audio signals for an audio output (Drawing: 1, paragraphs:

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0007-0012 of Nakamura); Aida teaches the following: image processing section checks whether the reception picture data is valid or invalid (fig. 1, see abstract); but combination does not teach the following: displaying the substitution picture data or received picture data depending on the whether the received data is invalid or valid.

However, Kato discloses communication terminal which teaches the following: displaying the substitution picture data or received picture data depending on the user's choice (paragraphs: 0026-0027).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: displaying the substitution picture data or received picture data depending on the whether the received data is invalid or valid as this arrangement would facilitate the user to display required picture to suite user needs as taught by Kato.

5. Claims 8-10, 18-20, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura in view of Aida, Nishimura and Kato.

Regarding claim 8, Nakamura discloses a picture phone apparatus comprising: a display section (5, Drawing 1), a substitution picture storage section (2, Drawing 1), an audio processing section (16, Drawing 1), an image processing section (7, Drawing 1), a speaker (17, Drawing 1), a communication processing section (9, Drawing 1) which receives reception data, separates reception data into reception picture data and reception audio data, and outputs the reception picture data to the image processing section and the reception audio data to the audio processing section, wherein audio processing section (16, Drawing 1) decodes the reception audio data to produce an



audio signal and drives the speaker (17, Drawing 1) based on the audio signal for an audio output (paragraphs: 0007 – 0023).

Nakamura differs from claim 8 in that he does not teach the following: the image processing section checks whether the reception picture data is valid or invalid, sets the reception data as a reception display picture when it is determined that the reception picture data is valid, and retrieves the substitution picture data to set the substitution picture data as the reception display picture when it is determined that the reception picture data is invalid, and outputs the reception display picture to the display section.

However, Aida discloses picture encoding/transmitting equipment which teaches the following: image processing section (3, fig. 1) determines whether the picked-up picture is valid or invalid, based on picture element taking-in range according to an average moving vector (fig. 1, see abstract); and Kato teaches the following: displaying the substitution picture data or received picture data depending on the user's choice (paragraphs: 0026-0027); and Nishimura teaches the following: automatically checking the whether the data is valid or invalid (abstract, paragraphs: 0020-0031, 0046-0049).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Nakamura's system to provide for the following: the image processing section checks whether the reception picture data is valid or invalid, sets the reception data as a reception display picture when it is determined that the reception picture data is valid, and retrieves the substitution picture data to set the substitution picture data as the reception display picture when it is determined that the reception picture data is invalid, and outputs the reception display picture to the display

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section as this arrangement would facilitate required picture display depending upon user needs; automatically checking the whether the data is valid or invalid as this arrangement would facilitate to automatically determine validity or otherwise of data for further action as taught by Nishimura.

Regarding claim 18, Nakamura discloses a picture data transmission method comprising: receiving reception data, separating the reception data into reception picture data and reception audio data (Drawing: 1, paragraphs: 0007 – 0023).

Nakamura differs from claim 18 in that he does not teach the following: checking whether the reception picture data is valid or invalid, and displaying the reception picture data when it is determined that the reception picture data is valid, and the substitution picture data when it is determined the reception picture data is invalid.

However, Aida discloses picture encoding/transmitting equipment which teaches the following: image processing section (3, fig. 1) determines whether the picked-up picture is valid or invalid, based on picture element taking-in range according to an average moving vector (fig. 1, see abstract); and Kato teaches the following: displaying the substitution picture data or received picture data depending on the user's choice (paragraphs: 0026-0027); Nishimura teaches the following: automatically checking the whether the data is valid or invalid (abstract, paragraphs: 0020-0031, 0046-0049).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Nakamura's system to provide for the following: checking whether the reception picture data is valid or invalid, and displaying the reception picture data when it is determined that the reception picture data is valid, and the

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substitution picture data when it is determined the reception picture data is invalid as this arrangement would facilitate required picture display depending upon user needs; automatically checking the whether the data is valid or invalid as this arrangement would facilitate to automatically determine validity or otherwise of data for further action as taught by Nishimura.

Regarding claims 10 and 20, Nakamura teaches the following: substitution picture data is one of still image data and video picture data (see abstract);

Regarding claims 9 and 19, Nakamura does not teach the following: image processing section determines/checks whether the picked-up picture is valid or invalid, based on at least one of brightness data of the picked-up picture data and frequency of the picked-up picture data

However, Aida discloses picture encoding/transmitting equipment which teaches the following: image processing section (3, fig. 1) determines whether the picked-up picture is valid or invalid, based on picture element taking-in range according to an average moving vector (fig. 1, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: image processing section determines/checks whether the picked-up picture is valid or invalid, based on at least one of brightness data of the picked-up picture data and frequency of the picked-up picture data as this arrangement would facilitate to determine validity or otherwise of the picture element for further action as taught by Ada, thus providing for transmission of valid image.

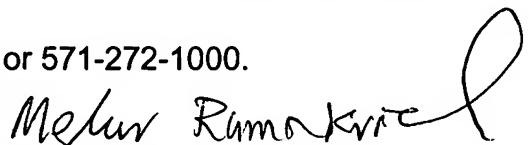
***Response to Arguments***

6. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Melur Ramakrishnaiah  
Primary Examiner  
Art Unit 2614